

Senate File 2273 - Introduced

SENATE FILE 2273
BY COMMITTEE ON STATE
GOVERNMENT

(SUCCESSOR TO SSB 3114)

A BILL FOR

1 An Act providing for the licensing of polysomnographic
2 technologists and providing for a penalty.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 147.1, subsections 3 and 6, Code 2011,
2 are amended to read as follows:

3 3. "*Licensed*" or "*certified*", when applied to a physician
4 and surgeon, podiatric physician, osteopathic physician and
5 surgeon, physician assistant, psychologist, chiropractor,
6 nurse, dentist, dental hygienist, dental assistant,
7 optometrist, speech pathologist, audiologist, pharmacist,
8 physical therapist, physical therapist assistant, occupational
9 therapist, occupational therapy assistant, respiratory care
10 practitioner, practitioner of cosmetology arts and sciences,
11 practitioner of barbering, funeral director, dietitian, marital
12 and family therapist, mental health counselor, polysomnographic
13 technologist, social worker, massage therapist, athletic
14 trainer, acupuncturist, nursing home administrator, hearing aid
15 dispenser, or sign language interpreter or transliterator means
16 a person licensed under this subtitle.

17 6. "*Profession*" means medicine and surgery, podiatry,
18 osteopathic medicine and surgery, practice as a physician
19 assistant, psychology, chiropractic, nursing, dentistry,
20 dental hygiene, dental assisting, optometry, speech pathology,
21 audiology, pharmacy, physical therapy, physical therapist
22 assisting, occupational therapy, occupational therapy
23 assisting, respiratory care, cosmetology arts and sciences,
24 barbering, mortuary science, marital and family therapy, mental
25 health counseling, polysomnography, social work, dietetics,
26 massage therapy, athletic training, acupuncture, nursing home
27 administration, hearing aid dispensing, or sign language
28 interpreting or transliterating.

29 Sec. 2. Section 147.2, subsection 1, Code 2011, is amended
30 to read as follows:

31 1. A person shall not engage in the practice of medicine
32 and surgery, podiatry, osteopathic medicine and surgery,
33 psychology, chiropractic, physical therapy, physical therapist
34 assisting, nursing, dentistry, dental hygiene, dental
35 assisting, optometry, speech pathology, audiology, occupational

1 therapy, occupational therapy assisting, respiratory care,
2 pharmacy, cosmetology arts and sciences, barbering, social
3 work, dietetics, marital and family therapy or mental health
4 counseling, massage therapy, mortuary science, polysomnography,
5 athletic training, acupuncture, nursing home administration,
6 hearing aid dispensing, or sign language interpreting
7 or transliterating, or shall not practice as a physician
8 assistant, unless the person has obtained a license for that
9 purpose from the board for the profession.

10 Sec. 3. Section 147.13, subsection 18, Code 2011, is amended
11 to read as follows:

12 18. For respiratory care and polysomnographic technology,
13 the board of respiratory care.

14 Sec. 4. Section 147.14, subsection 1, paragraph o, Code
15 2011, is amended to read as follows:

16 o. For respiratory care, one licensed physician with
17 training in respiratory care, three respiratory care
18 practitioners who have practiced respiratory care for a
19 minimum of six years immediately preceding their appointment
20 to the board and who are recommended by the society for
21 respiratory care, three members who are licensed to practice
22 polysomnographic technology, and ~~one member~~ two members
23 not licensed to practice medicine, osteopathic medicine,
24 polysomnographic technology, or respiratory care who shall
25 represent the general public.

26 Sec. 5. Section 147.74, Code 2011, is amended by adding the
27 following new subsection:

28 NEW SUBSECTION. 22A. A person who is licensed to engage
29 in the practice of polysomnography shall have the right to use
30 the title "polysomnographic technologist" or the abbreviation
31 "PSGT".

32 Sec. 6. NEW SECTION. 148F.1 **Definitions**.

33 As used in this chapter, unless the context otherwise
34 requires:

35 1. "*Board*" means the board of respiratory care established

1 in chapter 147.

2 2. "*Direct supervision*" means that the polysomnographic
3 technologist providing supervision must be present where the
4 polysomnographic procedure is being performed and immediately
5 available to furnish assistance and direction throughout the
6 performance of the procedure.

7 3. "*General supervision*" means that the polysomnographic
8 procedure is provided under a physician's overall direction and
9 control, but the physician's presence is not required during
10 the performance of the procedure.

11 4. "*Physician*" means a person who is currently licensed in
12 Iowa to practice medicine and surgery or osteopathic medicine
13 and surgery and who is board certified in sleep medicine and
14 who is actively involved in the sleep medicine center or
15 laboratory.

16 5. "*Polysomnographic student*" means a person who is enrolled
17 in a commission on accreditation of allied health education
18 program or an equivalent program accredited by a nationally
19 recognized accrediting agency and who may provide sleep-related
20 services under the direct supervision of a polysomnographic
21 technologist as a part of the person's educational program.

22 6. "*Polysomnographic technician*" means a person who has
23 graduated from a commission on accreditation of allied health
24 education program or equivalent program accredited by a
25 nationally recognized accrediting agency, but has not yet
26 passed an accepted national credentialing examination given by
27 a testing body that is accredited by a nationally recognized
28 accrediting agency, credentialed in one of the health-related
29 fields accepted by the board of registered polysomnographic
30 technologists, may provide sleep-related services under the
31 direct supervision of a licensed polysomnographic technologist
32 for a period of up to thirty days postgraduation while awaiting
33 credentialing examination scheduling and results.

34 7. "*Polysomnographic technologist*" means a person who is
35 credentialed by a nationally recognized accrediting agency

1 and is licensed by the board to engage in the practice of
2 polysomnography under the general supervision of a physician.

3 8. "*Practice of polysomnography*" means as described in
4 section 148F.2.

5 9. "*Sleep-related services*" means acts performed by
6 polysomnographic technicians, polysomnographic students, and
7 other persons permitted to perform those services under this
8 chapter, in a setting described in this chapter that would be
9 considered the practice of polysomnography if performed by a
10 polysomnographic technologist.

11 Sec. 7. NEW SECTION. 148F.2 Practice of polysomnography.

12 The practice of polysomnography consists of but is not
13 limited to the following tasks as performed for the purpose of
14 polysomnography, under the general supervision of a licensed
15 physician:

16 1. Monitoring, recording, and evaluating physiologic
17 data during polysomnographic testing and review during the
18 evaluation of sleep-related disorders, including sleep-related
19 respiratory disturbances, by applying any of the following
20 techniques, equipment, or procedures:

21 a. Noninvasive continuous, bilevel positive airway pressure,
22 or adaptive servo-ventilation titration on spontaneously
23 breathing patients using a mask or oral appliance; provided,
24 that the mask or oral appliance does not extend into the
25 trachea or attach to an artificial airway.

26 b. Supplemental low-flow oxygen therapy of less than six
27 liters per minute, utilizing a nasal cannula or incorporated
28 into a positive airway pressure device during a polysomnogram.

29 c. Capnography during a polysomnogram.

30 d. Cardiopulmonary resuscitation.

31 e. Pulse oximetry.

32 f. Gastroesophageal pH monitoring.

33 g. Esophageal pressure monitoring.

34 h. Sleep stage recording using surface

35 electroencephalography, surface electrooculography, and surface

- 1 submental electromyography.
- 2 *i.* Surface electromyography.
- 3 *j.* Electrocardiography.
- 4 *k.* Respiratory effort monitoring, including thoracic and
- 5 abdominal movement.
- 6 *l.* Plethysmography blood flow monitoring.
- 7 *m.* Snore monitoring.
- 8 *n.* Audio and video monitoring.
- 9 *o.* Body movement monitoring.
- 10 *p.* Nocturnal penile tumescence monitoring.
- 11 *q.* Nasal and oral airflow monitoring.
- 12 *r.* Body temperature monitoring.
- 13 2. Monitoring the effects that a mask or oral appliance
- 14 used to treat sleep disorders has on sleep patterns; provided,
- 15 however, that the mask or oral appliance shall not extend into
- 16 the trachea or attach to an artificial airway.
- 17 3. Observing and monitoring physical signs and symptoms,
- 18 general behavior, and general physical response to
- 19 polysomnographic evaluation and determining whether initiation,
- 20 modification, or discontinuation of a treatment regimen is
- 21 warranted.
- 22 4. Analyzing and scoring data collected during the
- 23 monitoring described in this section for the purpose of
- 24 assisting a physician in the diagnosis and treatment of sleep
- 25 and wake disorders that result from developmental defects,
- 26 the aging process, physical injury, disease, or actual or
- 27 anticipated somatic dysfunction.
- 28 5. Implementation of a written or verbal order from a
- 29 licensed physician to perform polysomnography.
- 30 6. Education of a patient regarding the treatment regimen
- 31 that assists the patient in improving the patient's sleep.
- 32 7. Use of any oral appliance used to treat sleep-disordered
- 33 breathing while under the care of a licensed polysomnographic
- 34 technologist during the performance of a sleep study, as
- 35 directed by a licensed dentist.

1 **Sec. 8. NEW SECTION. 148F.3 Location of services.**

2 The practice of polysomnography shall take place only in a
3 facility that is accredited by a nationally recognized sleep
4 medicine laboratory or center accrediting agency; provided,
5 however, that the scoring of data and the education of patients
6 may take place in settings other than in a facility that is
7 accredited by a nationally recognized sleep medicine laboratory
8 or center accrediting agency.

9 **Sec. 9. NEW SECTION. 148F.4 Scope of chapter.**

10 Nothing in this chapter shall be construed to limit or
11 restrict a health care practitioner licensed in this state from
12 engaging in the full scope of practice of the individual's
13 profession. Respiratory therapists licensed in Iowa and
14 working within the scope of practice of their license as
15 provided in chapter 152B are exempt from this chapter.

16 **Sec. 10. NEW SECTION. 148F.5 Powers of the board.**

17 The board may do any of the following:

18 1. Promulgate rules necessary for the implementation and
19 administration of this chapter and the applicable provisions
20 of chapter 147.

21 2. Establish fees as provided in section 147.80.

22 3. Review and approve or reject the application of each
23 person who applies for licensure as a polysomnographic
24 technologist.

25 4. Issue all temporary permits and all approved licenses and
26 renewals of licenses.

27 5. Deny, suspend, revoke, restrict, or impose conditions
28 on a license, as the board deems necessary or appropriate at
29 the time a license is issued, renewed, or reinstated, or as a
30 sanction imposed at the conclusion of a disciplinary hearing.

31 6. Issue private advisory letter rulings to any person
32 licensed under this chapter who makes a request for a ruling
33 regarding any matter within the board's jurisdiction; provided,
34 however, that the ruling shall affect only the licensee making
35 the inquiry and shall have no precedential value for any other

1 contested case or inquiry before the board or the committee.

2 7. Develop a code of ethics for the practice of
3 polysomnography.

4 8. Develop standards of care for the practice of
5 polysomnography.

6 9. Develop standards for the educational and clinical
7 training of polysomnographic technologists, including the
8 evaluation of the accreditation status of educational programs
9 in polysomnography.

10 10. Develop criteria for the evaluation of applications for
11 licensure submitted by polysomnographic technologists who are
12 licensed in other states.

13 11. Develop continuing education requirements for licensed
14 polysomnographic technologists.

15 Sec. 11. NEW SECTION. 148F.6 **Licensing requirement.**

16 1. *a.* Commencing January 1, 2013, a person who is engaged
17 in the practice of polysomnography shall be licensed as
18 provided in this chapter and it shall be unlawful for any
19 person to engage in the practice of polysomnography without
20 such license.

21 *b.* (1) Prior to January 1, 2013, a person who is engaged in
22 the practice of polysomnography without being licensed under
23 this chapter shall not be deemed to be in violation of this
24 chapter.

25 (2) A person who is engaged in the practice of
26 polysomnography on January 1, 2013, shall be eligible for
27 licensure under this chapter without meeting the educational
28 requirements of this section provided that the person meets
29 the requirements set out in this chapter. This person shall
30 meet or exceed the passing point of a nationally accepted
31 credentialing exam in polysomnographic technology by January
32 1, 2014.

33 2. A person seeking licensure as a polysomnographic
34 technologist shall be of good moral character, shall be at
35 least eighteen years of age, shall pay the fees established

1 by the board for licensure, and shall present proof that the
2 person meets one of the following educational requirements:

3 *a.* Graduation from a polysomnographic educational program
4 that is accredited by the committee on accreditation of
5 polysomnographic technologist education or by a committee
6 on accreditation for the commission on accreditation of
7 allied health education programs, or an equivalent program as
8 determined by the board.

9 *b.* Graduation from a respiratory care educational program
10 that is accredited by the commission on accreditation
11 for respiratory care or by a committee on accreditation
12 for the commission on accreditation of allied health
13 education programs, and completion of the curriculum for a
14 polysomnographic certificate established and accredited by the
15 commission on accreditation of allied health education programs
16 as an extension of the respiratory care program.

17 *c.* Graduation from an electroneurodiagnostic technologist
18 educational program that is accredited by the committee
19 on accreditation for education in electroneurodiagnostic
20 technology or by a committee on accreditation for the
21 commission on accreditation of allied health education
22 programs, and completion of the curriculum for a
23 polysomnography certificate established and accredited by the
24 commission on accreditation of allied health education programs
25 as an extension of the electroneurodiagnostic education
26 program.

27 3. To be eligible for renewal of a license to engage in the
28 practice of polysomnography, a polysomnographic technologist
29 shall maintain that person's credential in compliance with
30 rules set forth by a national accredited certifying agency, as
31 adopted by the board in rule.

32 Sec. 12. NEW SECTION. 148F.7 **Persons exempt from licensing**
33 **requirement — temporary permit.**

34 1. The following persons may provide sleep-related services
35 without being licensed as a polysomnographic technologist under

1 this chapter:

2 *a.* A polysomnographic technician may provide sleep-related
3 services under the general supervision of a physician for
4 a period of up to six months from the date of the person's
5 graduation from one of the accredited programs described in
6 section 148F.6. The board may in its sole discretion grant a
7 one-time extension of up to three months beyond this one-year
8 period.

9 *b.* A polysomnographic student may provide sleep-related
10 services under the direct supervision of a polysomnographic
11 technologist as a part of the person's educational program
12 while actively enrolled in a polysomnographic educational
13 program that is accredited by the commission on accreditation
14 of allied health education programs or an equivalent program as
15 determined by the board.

16 *c.* A person, other than a respiratory care practitioner
17 licensed under this chapter, credentialed in one of the
18 health-related fields accepted by the board of registered
19 polysomnographic technologists or another nationally
20 recognized accrediting agency, or a graduate of a commission on
21 accreditation of allied health educational program may provide
22 sleep-related services under direct supervision of a licensed
23 polysomnographic technologist for a period up to thirty
24 days postgraduation while awaiting credentialing examination
25 scheduling and results.

26 2. Before providing any sleep-related services, a
27 polysomnographic technician shall obtain a temporary permit
28 from the board. While providing sleep-related services, the
29 technician shall wear a badge that appropriately identifies the
30 person as a polysomnographic technician.

31 3. Before providing any sleep-related services, a person
32 who is obtaining clinical experience shall give notice to the
33 board that the person is working under the direct supervision
34 of a polysomnographic technologist in order to gain the
35 experience to be eligible to sit for a national certification

1 examination. The person shall wear a badge that appropriately
2 identifies the person while providing such services.

3 4. Polysomnographic students shall not receive compensation
4 for the sleep-related services they provide and shall wear
5 badges that appropriately identify them as students.

6 Sec. 13. NEW SECTION. 148F.8 **Issuance, retirement, and**
7 **renewal of licenses.**

8 1. The board shall issue and renew licenses under this
9 chapter as provided by the board in rule.

10 2. A person who has been issued a license to practice under
11 this chapter who wishes to retire that license shall file with
12 the board an affidavit on a form to be furnished by the board
13 stating the date on which the person retired from practice
14 and other facts that verify the retirement as the board deems
15 necessary. Any such person who thereafter wishes to reenter
16 practice shall request reinstatement of licensure.

17 3. A license issued by the board under this chapter
18 shall contain the name and address of the person to whom it
19 is issued, the date and number of the license, and other
20 information that the board deems necessary.

21 a. The address contained on the license shall be the address
22 where all correspondence and renewal forms from the board shall
23 be sent.

24 b. Any person whose address changes shall, within thirty
25 days after the change in address, notify the board of the
26 address change. The most recent address contained in the
27 board's records for each license holder shall be the address
28 deemed sufficient for purposes of service of process.

29 4. A license shall either be prominently displayed in the
30 office or place in which the person practices or be stored in a
31 place from which it can be immediately produced upon request of
32 a patient or representative of the board.

33 5. A person whose license has been lost may make application
34 to the board for a replacement. The application shall be
35 accompanied by an affidavit setting out the facts concerning

1 the loss of the original license.

2 Sec. 14. NEW SECTION. 148F.9 Licensing sanctions.

3 The board may impose sanctions for violations of this
4 chapter as provided in chapters 147 and 272C.

5 Sec. 15. INITIAL APPOINTMENTS.

6 1. Initial appointments of polysomnographic technologists
7 to the board of respiratory care pursuant to this Act shall be
8 made as follows: two members shall be appointed to a term of
9 three years and one member shall be appointed to a term of one
10 year. Each regular appointment thereafter shall be for a term
11 of three years.

12 2. The Iowa sleep society may submit a list of three
13 names to the governor for each position to be filled by a
14 polysomnographic technologist.

15 EXPLANATION

16 This bill requires the licensing of polysomnographic
17 technologists and makes the provisions of Code chapters 147
18 and 272C, including penalty and other regulatory provisions,
19 applicable to other health professions applicable to the
20 practice of polysomnography. Code section 147.86 provides
21 that it is a serious misdemeanor to violate a provision of
22 the licensing laws. The licensing program is administered
23 and regulated by the board of respiratory care, with four new
24 members added; three polysomnographic technologists and one
25 additional public member, for a total of nine members.

26 A licensed polysomnographic technologist practices under
27 the general supervision of a licensed physician, providing
28 specifically enumerated services related to sleep disorders. A
29 polysomnographic student enrolled in an approved educational
30 program provides services under the direct supervision of a
31 polysomnographic technologist.

32 The bill sets out educational standards and testing
33 requirements, and provides for disciplinary actions.